



09/720382

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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C&C

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

9

Patent Number

6,833,150

Issue Date

December 21, 2004

First Named Inventor

Reynolds Paul ROSS

Art Unit

1761

Examiner Name

Keith K. Hendricks

Attorney Docket Number

TC 2002.00

ENCLOSURES (check all that apply)☐ Fee Transmittal Form☐ Fee Attached☐ Amendment / Reply☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Reply to Missing Parts/
Incomplete Application☐ Reply to Missing Parts
under 37 CFR 1.52 or 1.53☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a
Provisional Application☐ Power of Attorney, Revocation
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) _____☐ Landscape Table on CD☐ After Allowance Communication to TC☐ Appeal Communication to Board
of Appeals and Interferences☐ Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s)
(please identify below):Petition for Certificate of Correction
Pursuant to 37 CFR Sec. 1.322 w/ copy of
Notice of Allowance, Notice of Allowability
and Examiner's Amendment issued *

Certificate

MAY 13 2005

of Correction

Remarks*December 12, 2003 (6 pages); Certificate of Correction (1 page) (in duplicate);
postcard receipt**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm

Bingham McCutchen LLP

Signature

Printed Name

Antoinette F. Konski

Date

May 5, 2005

Reg.
No.

34,202

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Attn. Certificate of Correction Branch, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Typed or printed name

Mary R. Zimmerman

Date

May 5, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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MAY 19 2005



PATENT
TC 2002.00

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Date: May 5, 2005

By: Mary R. Zimmerman
Mary R. Zimmerman

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Reynolds Paul ROSS

Patent No.: 6,833,150

Issued: December 21, 2004

Serial No.: 09/720,382

Filing Date: March 7, 2001

For: SPRAY-DRIED BACTERIOCIN
POWDER WITH ANTI-MICROBIAL
ACTIVITY

Group Art Unit: 1761

Examiner: Keith D. Hendricks

Confirmation No.: 2369

**PETITION FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR § 1.322**

Commissioner for Patents
Attn. Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR § 1.322 Applicants respectfully request the Commissioner for a Certificate of Correction for the above-identified U.S. Patent incorporating the following changes:

On the Front Page:

Page 1, item (22) PCT Filed delete "Mar. 7, 2000" and insert Jun. 22, 1999;

Page 1, item (86) § 371(c)(1), (2), (4) Date delete "Jun. 22, 1999" and insert Mar. 7, 2001.

In the Claims:

Claim 1, column 13, line 1, before "milk" insert food grade;

Claim 2, column 13, line 15, after "whey" delete --, reconstituted yeast powders, and synthetic laboratory-type media--;

Claim 11, column 14, line 16, before powder, insert milk or dairy based;

Claim 13, column 14, line 25, after "dessert" delete --including a custard--.

REMARKS

Attached is a copy of the Notice of Allowance, Notice of Allowability and Examiner's Amendments issued December 16, 2003 indicating the amendments to claims referenced above.

CONCLUSION

Pursuant to 37 CFR § 1.322, Applicants respectfully petition the Commissioner to issue a Certificate of Correction for U.S. Patent No. 6,833,150, which incorporates the above-identified corrections. PTO Form 44 showing the change is enclosed herewith.

Applicants believe no fee is required. However, the undersigned hereby authorized the Commissioner to charge any fee due for the filing of these papers to Bingham McCutchen Account No. 50-2518 (our ref. 7005492001).

Respectfully submitted,

Dated: May 5, 2005

By: 
Antoinette F. Konski
Reg. No. 34,202

Bingham McCutchen LLP
Three Embarcadero Center, Suite 1800
San Francisco, California 94111-4067
Phone No. (650) 849-4400
Fax No. (650) 849-4800



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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NOTICE OF ALLOWANCE AND FEE(S) DUE

Antoinette F Konski
McCutchen, Doyle, Brown & Enersen, LLP
Three Embarcadero Center
Suite 1800
San Francisco, CA 94111

12/16/2003

EXAMINER

HENDRICKS, KEITH D

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 12/16/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,382	03/07/2001	Reynolds Paul Ross	681353342002	2369

TITLE OF INVENTION: SPRAY -DRIED BACTERIOCIN POWDER WITH ANTI-MICROBIAL ACTIVITY

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$0	\$1330	03/16/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

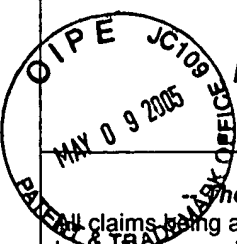
☐ Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

Docket: 24005-7002
Action: ISSUE FEE DUE
Date Due: 3-16-2004



Notice of Allowability

Application No.

09/720,382

Examiner

Keith Hendricks

Applicant(s)

ROSS ET AL.

Art Unit

1761

The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included
herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS
NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative
of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE of 10-22-03.
2. ☒ The allowed claim(s) is/are 1-9 and 11-15.
3. ☒ The drawings filed on 12-21-2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the
International Bureau (PCT Rule 17.2(a)).
* Certified copies not received: ____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific
reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
(a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included
in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted
below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF
INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No. _____.
(b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
(c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of
each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the
attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Antoinette Konski on December 09, 2003.

In the specification:

At the top of page 1, before the first line, please insert the following:

--- This application is a 371 of PCT/IE99/00058, filed June 22, 1999. ----

In the claims:

Please amend claims 1-2, 12 and 14 to read as follows:

1. (Amended) A process for the production of a spray-dried concentrate comprising lacticin 3147, for use as a food ingredient, comprising:
 - (a) inoculating a food grade milk or dairy based medium with a lacticin 3147-producing strain of bacteria;
 - (b) fermenting the inoculated medium,
 - (c) adjusting the pH of the fermentation to a pH ranging from 6.3 to 6.7;
 - (d) inactivating the bacteria within the fermentate; and
 - (e) evaporating the fermentate of step (d) thereby producing the lacticin 3147 concentrate for use as a food ingredient.

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2. (Amended) A process as claimed in claim 1, wherein the medium of step (a) is selected from the group consisting of milk, reconstituted dairy-based powders, reconstituted demineralized whey powder, reconstituted skimmed milk powder, reconstituted whey protein concentrate powder, pasteurized whole milk, and Cheddar cheese whey [~~reconstituted yeast powders, and synthetic laboratory type media~~].

12. (Amended) A spray-dried food-grade milk or dairy based powder containing lacticin 3147 having the ability to inhibit organisms which are not resistant to lacticin 3147, and having an activity of greater than about 20,000 AU/ml.

14. (Previously Amended) The food product as claimed in claim 13, wherein said product is selected from the group consisting of an infant milk formulation, a sauce, a mayonnaise, a dessert [~~including a confection~~], a tinned food, a yogurt, a soup and a bakery product.


The following is an examiner's statement of reasons for allowance: Applicant's comments at pages 8-10 of the response of 10-22-03 were deemed persuasive to overcome the art of record. The amendments indicated above were made to more clearly define the invention and to correspond to the arguments provided in said response, including the use of a food grade milk or dairy based medium with the bacteria.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith Hendricks whose telephone number is (571) 272-1401. The examiner can normally be reached on M-F (8:30am-6pm); First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


KEITH HENDRICKS
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,833,150

DATED: December 21, 2005

INVENTOR(S): Reynolds Paul ROSS

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Page 1, item (22) PCT Filed delete "Mar. 7, 2000" and insert Jun. 22, 1999;

Page 1, item (86) § 371(c)(1), (2), (4) Date delete "Jun. 22, 1999" and insert Mar. 7, 2001;

Claim 1, column 13, line 1, before "milk" insert food grade;

Claim 2, column 13, line 15, after "whey" delete --, reconstituted yeast powders, and synthetic laboratory-type media--;

Claim 11, column 14, line 16, before powder, insert milk or dairy based;

Claim 13, column 14, line 25, after "dessert" delete --including a custard--

Mailing ADDRESS OF SENDER:

Antoinette F. Konski, Esq.
BINGHAM MCCUTCHEN LLP
Three Embarcadero Center, Suite 1800
San Francisco, California 94111-4067

PATENT NO. 6,833,150
No. of additional copies



This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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MAY 19 2005

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,833,150**DATED: December 21, 2005****INVENTOR(S): Reynolds Paul ROSS**

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Claim 13, column 14, line 25, after "dessert" delete --including a custard--

Mailing ADDRESS OF SENDER:**PATENT NO. 6,833,150**

No. of additional copies

Antoinette F. Konski, Esq.
BINGHAM MCCUTCHEN LLP
Three Embarcadero Center, Suite 1800
San Francisco, California 94111-4067



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